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LOVELAND INDUSTRIES, INC. dba UAP WEST

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA - FRESNO

WAYNE BILLINGSLEY, WAVA
BILLINGSLEY AND CALIFORNIA AGRI
SPRAYERS, INC., A California Corporation,

Plaintiffs,

Vs.

LOVELAND INDUSTRIES, INC. dba UAP
WEST, a Colorado Corporation, and DOES 1
through 50, inclusive.

Defendants.

CASE NO.: 1: 02 CV 5853 REC DLB

**JOINT STIPULATION AND ORDER
TO CONTINUE TRIAL AND
PRETRIAL CONFERENCE DATES**

[Local Rule 78-230(g); 83-143]

COME NOW PLAINTIFF CALIFORNIA AGRI SPRAYERS, INC. BY AND THROUGH ITS
ATTORNEY OF RECORD GERALD M. LEVERETT AND DEFENDANTS LOVELAND
INDUSTRIES, INC. D.B.A. UAP WEST BY AND THROUGH THEIR ATTORNEYS OF
RECORD GORDON & REES, KEVIN ALEXANDER AND BRIAN M. LEDGER, WHO

1 STIPULATE TO CONTINUE THE TRIAL AND PRETRIAL CONFERENCE DATES, AND
2 WHICH STIPULATION PROVIDES:

3 **BACKGROUND:**

4
5 1. Plaintiff California Agri Sprayers, Inc., the owner of certain real property and orchards
6 located in the County of Tulare, State of California more particularly referred to by Tulare
7 County Tax Assessors' Numbers 338-070-006, 338-260-016, 338-070-005 and 338-070-006,
8 being a portion of Section 32, Township 26 South, Range 26 East MDB&M.

9 2. The above referred to real property is devoted to agricultural purposes and specifically
10 three separate almond orchards.

11 3. At the commencement of this litigation, Plaintiffs Wava Billingsley and Wayne
12 Billingsley were the owners of the real property described in Plaintiff's Complaint. Subsequent
13 to that time the Billingsleys transferred their interest personally to California Agri Sprayers, Inc.
14 California Agri Sprayers, Inc. now owns both the crop and the real property and it was no longer
15 necessary for the Billingsleys to remain parties to the action. In that regard a Joint Stipulation
16 was executed and filed with the Court whereby the case, as to the Billingsleys, was Dismissed
17 Without Prejudice and that the Plaintiff in the action remains California Agri Sprayers, Inc.
18

19 4. During the pendency of this action, Plaintiff's counsel underwent abdominal surgeries
20 in February, March, June and November of 2004. The parties conducted discovery while
21 accommodating counsel's medical needs.

22 5. The parties have exchanged Expert Witness Disclosures and have commenced Expert
23 Witness Discovery and Depositions.

24 6. A continuation of the Trial and Pretrial Conference is required to allow the parties
25 sufficient time to conduct mediation. As a result of recent information revealed in expert
26 discovery, all parties now believe that mediation will provide a reasonable possibility for
27
28

1 settlement of this matter. As such, all parties have agreed upon retired Federal Magistrate Judge
2 John Wagner with Judicate West as the mediator. All parties and the mediator are currently
3 working to agree on a mediation date. Given the calendars for all counsel and the mediator, it is
4 anticipated that the earliest possible time for the mediation will be the last week in June, 2006.
5 Trial is currently scheduled for June 27, 2006.

6
7 7. To allow sufficient time for the parties to conduct mediation without the necessity of
8 incurring substantial attorney's and expert's fees in preparation for trial, Plaintiffs and Defendant
9 have agreed that good cause exists to continue the Trial and Pretrial Conference. The Parties
10 have further agreed that the Pretrial Conference Statement should be due seven days prior to the
11 due date for the newly scheduled Pretrial Conference.

12 **STIPULATION**

13 WHEREFORE, based upon the above facts the parties hereto stipulate to the following:

- 14
15 1. Continue the Trial from June 27, 2006 to November 7, 2006 at 9 a.m.
16 2. Continue the Pretrial Conference from May 31, 2006 to September 29,
17 2006 at 1:30 p.m.
18 3. Joint Pretrial Conference Statement to be filed by September 20, 2006.

19 So stipulated.

20 Date: May 15, 2006

21 Gerald M. Leverett, Esq. /s/
Wayne Billingsley, Wava Billingsley,
By Gerald M. Leverett, Esq.

22
23 Date: May 15, 2006

24 Gerald M. Leverett, Esq. /s/
California Agri Sprayers
By Gerald M. Leverett, Esq.

25 So Stipulated.

26 Date: May 15, 2006

27 Kevin W. Alexander, Esq. /s/
Loveland Industries, Inc. d.b.a.
UAP West
By Kevin W. Alexander, Esq.

ORDER

The Court, having considered the Joint Stipulation of the parties hereto, and GOOD CAUSE APPEARING, the Court hereby approves the Stipulation. The Trial is continued from Continue the Trial from June 27, 2006 to November 7, 2006 at 9 a.m.; the Pretrial Conference is continued from May 31, 2006 to September 29, 2006 at 1:30 p.m.; and the Joint Pretrial Conference Statement to be filed by September 20, 2006.

IT IS ORDERED.

DATE: May 24, 2006

/s/ Dennis L. Beck

DENNIS BECK

U. S. MAGISTRATE JUDGE

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